

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 20-60434



In re: JOHNNY TURNER,

A True Copy
Certified order issued Jul 01, 2020

Movant

Style W. Cayce
Clerk, U.S. Court of Appeals, Fifth Circuit

Motion for an order authorizing
the United States District Court for the
Northern District of Mississippi to consider
a successive 28 U.S.C. § 2254 application

Before JONES, CLEMENT, and HAYNES, Circuit Judges.

PER CURIAM:

Johnny Turner, Mississippi prisoner # 37970, moves for authorization to file a second or successive 28 U.S.C. § 2254 application attacking his convictions for manufacturing methamphetamine and possession of methamphetamine.

Turner has not demonstrated that he can satisfy the criteria under which we may authorize the filing of a successive § 2254 application. He has not made a prima facie showing either (1) that his claims rely “on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable,” 28 U.S.C. § 2244(b)(2)(A), or (2) that the factual predicate for his claims “could not have been discovered previously through the exercise of due diligence,” and the underlying facts, “if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no

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reasonable factfinder would have found the applicant guilty of the underlying offense,” § 2244(b)(2)(B)(i), (ii); *see also* § 2244(b)(3)(A), (C). We do “not recognize freestanding claims of actual innocence on federal habeas review,” *In re Swearingen*, 556 F.3d 344, 348 (5th Cir. 2009), and Turner nevertheless fails to show that he has presented new evidence of actual innocence showing that it is more likely than not that no reasonable juror would have found him guilty of the charged offense, *see McQuiggin v. Perkins*, 569 U.S. 383, 386-87, 399 (2013); *Schlup v. Delo*, 513 U.S. 298, 327-29 (1995).

Accordingly, IT IS ORDERED that Turner’s motion for authorization is DENIED.

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

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600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

July 01, 2020

Mr. David Crews
Northern District of Mississippi, Aberdeen
United States District Court
301 W. Commerce Street
Aberdeen, MS 39730

No. 20-60434 In re: Johnny Turner
USDC No. 1:20-CV-105

Dear Mr. Crews,

Enclosed is a copy of the judgment issued as the mandate.

Sincerely,

LYLE W. CAYCE, Clerk

 *Shea E. Pertuit*

By: _____
Shea E. Pertuit, Deputy Clerk
504-310-7666

cc w/encl:
Mr. Johnny Turner